

August 17, 2006

MINUTES  
ILLINOIS CIVIL SERVICE COMMISSION  
August 17, 2006

I. OPENING OF MEETING AT 9:00 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Chris Kolker, Chairman; George Richards, Raymond W. Ewell, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; Andrew Barris of the Commission staff; Jan Oncken, Department of Central Management Services; and Sarah Cummins, Department of Revenue.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD JULY 20, 2006

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER BUKRABA AND THE MOTION ADOPTED 3-0 TO APPROVE THE MINUTES OF THE REGULAR MEETING HELD JULY 20, 2006. COMMISSIONER RICHARDS ABSTAINED.**

IV. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

**A. Report on Exempt Positions**

<u>Agency</u>	<u>Total Employees</u>	<u>No. of Exempt Positions</u>
Aging .....	144.....	9
Agriculture .....	631.....	17
Arts Council.....	19.....	1
Capitol Development Board .....	32.....	0
Central Management Services .....	1,672.....	112
Children and Family Services.....	3,337.....	41
Civil Service Commission .....	4.....	0
Commerce & Econ. Opportunity .....	442.....	60
Commerce Commission.....	42.....	0
Corrections.....	12,418.....	95
Criminal Justice Authority .....	72.....	6
Deaf and Hard of Hearing Comm. ....	6.....	1
Developmental Disabilities Council .....	11.....	1
Emergency Management Agency .....	110.....	1
Employment Security.....	1,774.....	26
Environmental Protect. Agency .....	1,072.....	17
Financial. & Prof. Regulation .....	810.....	43
Guardianship and Advocacy .....	113.....	6
Healthcare and Family Services .....	2,333.....	29
Historic Preservation Agency .....	360.....	12
Human Rights Commission .....	11.....	2
Human Rights Department .....	142.....	8
Human Services .....	15,045.....	62
Investment Board.....	5.....	2
Juvenile Justice .....	1,339.....	18
Labor.....	79.....	7
Labor Relations Board Educational .....	16.....	2
Labor Relations Board Local .....	1.....	0
Labor Relations Board State .....	17.....	2
Law Enforce. Trng. & Standard Bd. ....	23.....	1
Medical District Comm.....	2.....	0
Military Affairs .....	143.....	3
Natural Resources .....	1,777.....	27
Pollution Control Board.....	26.....	3
Prisoner Review Board .....	22.....	0
Property Tax Appeal Board .....	19.....	2
Public Health.....	1,120.....	35
Revenue .....	2,021.....	55
State Fire Marshal .....	152.....	9
State Police .....	1,479.....	6
State Police Merit Board.....	5.....	1
State Retirement Systems .....	84.....	1
Transportation.....	2,845.....	1
Veterans Affairs.....	1,174.....	5
Workers Comp. Commission.....	171.....	10
<b>TOTALS .....</b>	<b>53,120.....</b>	<b>739</b>

**B. Governing Rule - Jurisdiction B Exemptions**

- a) Before a position shall qualify for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the position shall be directly responsible to:
  1. The Governor, or
  2. A departmental director or assistant director appointed by the Governor, or
  3. A board or commission appointed by the Governor, or
  4. The head of an agency created by Executive Order, or the director or assistant director of an agency carrying out statutory powers, whose offices are created by the Governor subject to legislative veto under Article V, Section 11, of the Constitution of 1970, which agency head, director, or assistant director may themselves be subject to exemption under Section 4d(3), or
  5. In an agency having a statutory assistant director, a deputy director exercising full line authority under the director for all operating entities of the agency, provided the statutory role of assistant director is vacant or is assigned clearly distinct and separate duties from the deputy director and as a colleague to him, or
  6. A line position organizationally located between the director and/or assistant director and a subordinate statutorily exempt position(s), provided the position proposed for exemption has line authority over the statutory exempt position(s), or
  7. The elected head of an independent agency in the executive, legislative, or judicial branch of government.
- b) If a position meets the above criterion, it must, in addition, be responsible for one or more of the following before it shall be approved as exempt:
  1. Directs programs defined by statute and/or departmental, board, or commission policy or possess significant authority when acting in the capacity of a director of programs to bind the agency.
  2. Makes decisions in exercising principal responsibility for the determination or execution of policy which fix objectives or state the principles to control action toward operating objectives of one or more divisions, such decisions being subject to review or reversal only by the director, assistant director, board or commission.
  3. Participates in the planning and programming of departmental, board, or commission activities, integrating the plans and projections of related divisions, and the scheduling of projected work programs of those agencies.

\* \* \*

**C. Requests for 4d(3) Exemption**

- With regard to Item C, Commission staff initially recommended against approval of this request. Sarah Cummins, Deputy Director of the Marketing Division for the Lottery, spoke in favor of exemption noting that the position oversees three public relations contracts among other principal policy responsibilities. Due to discrepancies in the position's job description, it was recommended that this request be continued to allow the agency to prepare and submit a new job description.
- With regard to Item D, Commission staff reported that by agreement with the agency it was recommended that this request be continued to allow Commission staff additional time to review the submitted materials.
- With regard to Item E, Commission staff reported that there were initial concerns over potential overlap with several other positions in the Insurance Division. After consulting with agency staff, these issues were resolved and staff recommended approval of this request.
- With regard to Item F, Commission staff reported that the position met the criteria for exemption but there were concerns over some extended vacant principal policy positions within the agency. After consulting with the agency, staff recommended approval of this request.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER RICHARDS AND THE MOTION ADOPTED 4-0 TO GRANT AND CONTINUE THE REQUESTS FOR 4D(3) EXEMPTION FOR THE FOLLOWING POSITIONS:**

**The following 4d(3) exemption requests were approved on August 17, 2006:**

Illinois Department of Financial and Professional Regulation

Position Number: 40070-13-30-310-00-01  
Position Title: Senior Public Service Administrator  
Bureau/Division: Insurance  
Functional Title: Deputy Director Consumer Education  
Incumbent: None  
Supervisor: Chief Deputy Director (reports to Director, who in turn reports to agency Secretary)  
Location: Cook County

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Illinois Department of Revenue

Position Number: 40070-25-48-000-00-01  
Position Title: Senior Public Service Administrator  
Bureau/Division: Collections Bureau  
Functional Title: Manager Collections Bureau  
Incumbent: Henry Butler  
Supervisor: Director  
Location: Cook County

**The following 4d(3) exemption requests were continued to September 21, 2006:**

Illinois Department of Revenue

Position Number: 37015-25-90-210-10-01  
Position Title: Public Service Administrator  
Bureau/Division: Lottery-Superintendent's Office  
Functional Title: Communications Manager  
Incumbent: None  
Supervisor: Lottery Superintendent (reports to Director)  
Location: Cook County

Illinois Department of Commerce and Economic Opportunity

Position Number: 40070-42-00-700-05-01  
Position Title: Senior Public Service Administrator  
Bureau/Division: Entrepreneurial/Small Business Programs  
Functional Title: Assistant Deputy Director  
Incumbent: None  
Supervisor: Entrepreneurial/Small Business Programs Director  
(reports to agency Director)  
Location: Sangamon County

V. AMENDMENTS TO CLASS SPECIFICATIONS

- None submitted.

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER EWELL AND THE MOTION ADOPTED 4-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION NOT CONTAINED IN THIS REPORT TO ALLOW ADEQUATE STUDY.**

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VI. MOTION TO GO INTO EXECUTIVE SESSION

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE THE MOTION ADOPTED 4-0 TO HOLD AN EXECUTIVE SESSION PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4) AND 2(c)(11) OF THE OPEN MEETINGS ACT.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

August 17, 2006

VII. RECONVENE MEETING

Upon due and proper notice the regular meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 9:51 a.m.

PRESENT

Chris Kolker, Chairman; George Richards, Raymond W. Ewell, and Betty A. Bukraba, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris of the Commission staff.

VIII. NON-MERIT APPOINTMENT REPORT

The Personnel Code permits non-merit appointments for a limited period of time, i.e., emergency appointments shall not exceed 60 days and shall not be renewed, and positions shall not be filled on a temporary or provisional basis for more than six months out of any twelve-month period. Consecutive non-merit appointments are not violative of the Code, however, they do present a possible evasion of merit principles and should be monitored. Set forth below is the number of consecutive non-merit appointments made by each department. These statistics are from the Department of Central Management Services consecutive non-merit report.

<b>Agency</b>	<b>6/30/06</b>	<b>7/31/06</b>	<b>7/31/05</b>
Agriculture	12	11	1
Arts Council	0	1	0
Central Management Services	3	2	7
Children and Family Services	8	8	9
Commerce and Economic Opportunity	2	2	0
Financial and Professional Regulation	6	5	1
Healthcare and Family Services	10	9	6
Historic Preservation	15	15	33
Human Rights Department	1	1	0
Human Services	3	3	0
Natural Resources	30	34	26
Labor	0	0	1
Property Tax Appeal Board	1	1	0
Public Health	0	0	1
State Fire Marshal	0	0	4
Transportation	25	53	10
Veterans Affairs	1	0	0
<b><u>Totals</u></b>	<b>117</b>	<b>145</b>	<b>99</b>

IX. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEAL

• DISCHARGE APPEAL

DA-69-00<sup>1</sup>

DA-70-00

Petitioner	Jill Remmers and Sandra Remmers	Appeal Date	3/16/00
Agency	DHS	Decision Date	08/02/06
Type	Discharge	ALJ	Andrew Barris
Charge(s)	No written charges	Recommended Decision	No jurisdiction; employees were not certified when they were discharged.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION THAT THE RESPONDENTS WERE NOT CERTIFIED EMPLOYEES BY “OPERATION OF LAW” AND THEREFORE, THE CIVIL SERVICE COMMISSION HAS NO JURISDICTION TO HEAR THEIR DISCHARGE APPEALS.

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

• DISCHARGE APPEAL

DA-23-06

Petitioner	Zachary Finch	Appeal Date	10/13/05
Agency	DHS	Decision Date	07/27/06
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Falsifying documentation; failure to follow a directive & leaving work before the end of the overtime shift	Recommended Decision	Charges proven; unique factual circumstances warrant a 90-day suspension.

IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY CHAIRMAN KOLKER, AND BY ROLL CALL VOTE OF 3-1 THE MOTION ADOPTED THAT THE UNIQUE FACTUAL CIRCUMSTANCES SURROUNDING THE DISCHARGE DO RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE

<sup>1</sup> Consolidated appeals: DA-69-00 and DA-70-00; remanded to Commission by Circuit Court on March 21, 2005.

**TO NO LONGER HOLD THE POSITION. THE RESPONDENT'S RESPONSIBILITIES ON THE DAY IN QUESTION WITH THE HIGHLY IMPAIRED RESIDENT REQUIRED ONE-TO-ONE SUPERVISION. HE FAILED TO PERFORM THESE RESPONSIBILITIES WHICH LED TO AN UNACCEPTABLE LEVEL OF CARE. THE RESPONDENT'S CONTINUED EMPLOYMENT WOULD POSE A THREAT TO THIS AND OTHER RESIDENTS. IN ADDITION, THE RESPONDENT'S CONDUCT IN FALSIFYING THE RESIDENT'S SUPERVISION SHEET WARRANTS THE DISCHARGE.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>NO</b>
<b>BUKRABA</b>	<b>YES</b>		

- **DISCHARGE APPEAL**

**DA-33-06**

Petitioner	Daryl Scholtens	Appeal Date	2/28/06
Agency	DCFS	Decision Date	8/07/06
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Falsification of records; poor work performance	Recommended Decision	Charges partially proven; unique factual circumstances warrant a 90-day suspension.

**IT WAS MOVED BY COMMISSIONER RICHARDS, SECONDED BY COMMISSIONER BUKRABA, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED THAT THE PARTIALLY PROVEN CHARGES DO RISE TO THE LEVEL WHICH SOUND PUBLIC OPINION RECOGNIZES AS GOOD CAUSE FOR THE EMPLOYEE TO NO LONGER HOLD THE POSITION. THE PREPONDERANCE OF THE EVIDENCE INDICATES THAT THE RESPONDENT INTENTIONALLY FALSIFIED INFORMATION ON CASE NOTES REGARDING THE "L" CASE AND THE "H" CASE AND INTENTIONALLY FALSIFIED INFORMATION ON THE ACTIVITY/TRAVEL REPORT ON THE "A" CASE, IN ADDITION TO POOR WORK PERFORMANCE IN THE "L" CASE.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

- **DISCHARGE APPEAL**

**DA-51-06**

Petitioner	Michelle Lankford	Appeal Date	6/09/06
Agency	DVA	Decision Date	8/01/06
Type	Discharge	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Recommended Decision	Charges proven; discharge upheld.

**IT WAS MOVED BY COMMISSIONER EWELL, SECONDED BY COMMISSIONER RICHARDS AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION THAT THE CHARGES HAVE BEEN PROVEN AND DO WARRANT THE DISCHARGE OF THE RESPONDENT.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

X. **APPEALS TERMINATED WITHOUT DECISION ON THE MERITS**

- **DISMISSAL**

**RV-47-06**

Petitioner	AFSCME	Appeal Date	5/16/06
Agency	DHS	Decision Date	7/25/06
Type	Rule Violation	ALJ	Daniel Stralka
Charge(s)	Discrimination and harassment from Chief Engineer, David Arvans	Proposed Finding	Default (failure to provide additional information); dismissed subject to Commission approval.

- **WITHDRAWN**

**DA-55-06**

Respondent	Devin Sheared	Appeal Date	6/26/06
Agency	DOC	Decision Date	7/19/06
Type	Discharge	ALJ	Daniel Stralka
Charge(s)	Unauthorized absences	Recommended Decision	Withdrawn; dismissed subject to Commission approval.

- **WITHDRAWN**

**S-2-07**

Respondent	Tana Logue	Appeal Date	7/13/06
Agency	DVA	Decision Date	8/01/06
Type	Suspension	ALJ	Andrew Barris
Charge(s)	Unauthorized absences	Recommended Decision	Withdrawn; dismissed subject to Commission approval.

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL, AND BY ROLL CALL VOTE OF 4-0 THE MOTION ADOPTED TO APPROVE THE ADMINISTRATIVE LAW JUDGES' PROPOSED FINDING AND RECOMMENDED DECISIONS DISMISSING THE APPEALS OF AFSCME, SHEARED AND LOGUE.**

<b>KOLKER</b>	<b>YES</b>	<b>RICHARDS</b>	<b>YES</b>
<b>PETERSON</b>		<b>EWELL</b>	<b>YES</b>
<b>BUKRABA</b>	<b>YES</b>		

XI. **STAFF REPORT**

Executive Director Daniel Stralka reported that:

- Commission staff members have been exploring options for a new, uniform filing system for the Commission's records.
- The proposed lease for new office space for the Commission's Springfield office has been delayed due to an issue over square footage.
- A Freedom of Information Act Standard Copy Fee Schedule has been implemented.
- In conjunction with Central Management Services, Division of Technical Services, Commission Staff are developing new criteria for exemptions under Section 4d(3) of the Personnel Code.

XII. **PERSONNEL SEARCH**

- Chairman Chris Kolker reported to the Commission that he has commenced the search for an impartial, qualified attorney to be hired on a contractual basis to serve as the Administrative Law Judge for the DeFraties and Casey discharge appeals (DA-38-06 and DA-39-06). Commission staff members are already taking the administrative steps to secure the necessary approvals and ensure adequate funding for this contract.

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XIII. ANNOUNCEMENT OF NEXT MEETING

Announcement of the next regular meeting to be held on Thursday, September 21, 2006 at 9:00 a.m. in the Commission's Chicago office.

XIV. MOTION TO ADJOURN

**IT WAS MOVED BY CHAIRMAN KOLKER, SECONDED BY COMMISSIONER EWELL AND THE MOTION ADOPTED 4-0 TO ADJOURN THE MEETING AT 10:30 A.M.**